

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEANETTE M. CARBONE,

Petitioner,

17 Civ. 8359 (JGK)

- against -

MEMORANDUM OPINION
AND ORDER

NANCY A. BERRYHILL, ACTING
COMMISSIONER OF SOCIAL SECURITY,

Respondent.

JOHN G. KOELTL, District Judge:

The petitioner requests that the Court appoint her counsel.

The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. Willey v. Kirkpatrick, 801 F.3d 51, 71 (2d Cir. 2015) (citing Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986)); see Jackson v. Moscicki, No. 99 Civ. 2427 (JGK), 2000 WL 511642, at *4 (S.D.N.Y. Apr. 27, 2000)). For the Court to order the appointment of counsel, the petitioner must, as a threshold matter, demonstrate that her claim has substance or a likelihood of success on the merits. Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "plaintiff's ability to obtain representation independently, and his ability to handle the case without assistance in the light

of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargent Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The plaintiff has not yet made such a showing. The plaintiff's application for the Court to appoint counsel is therefore **denied without prejudice** for failure to make the required showing at this time.

Although the Court will not appoint counsel at this point, the petitioner may seek assistance from the New York Legal Aid Group. The New York Legal Aid Group is located at 7 Hanover Square, 18th Floor, New York, NY 10004, and can be reached by calling (212) 613-5000 or by emailing info@nylag.org.

SO ORDERED.

Dated: New York, New York
December 18, 2017


John G. Koeltl
United States District Judge